WINONA COUNTY DISTRICT COURT
LIMITED ENGLISH PROFICIENCY (LEP) PLAN

I. LEGAL BASIS AND PURPOSE

This document serves as the plan for WINONA County District Court to provide services to LEP individuals in compliance with Title VI of the Civil Rights Act of 1964; 45 C.F.R. § 80 et seq; and 28 C.F.R. § 42 et seq. The purpose of this plan is to provide a framework for the provision of timely and reasonable language assistance to LEP persons who come in contact with WINONA County District Court.

This LEP Plan was developed to ensure equal access to court services for persons with limited English proficiency and hearing impaired persons. Although deaf and hard of hearing individuals are covered under the Americans with Disabilities Act (ADA) rather than Title VI of the Civil Rights Act, they have been included in this plan insofar as they relate to the Minnesota Judicial Branch Court Interpreter Program.

II. NEEDS ASSESSMENT

A. Statewide

The State of Minnesota provides court services to a wide range of persons, including people who do not speak English or who are hearing impaired. Service providers include the Minnesota Supreme Court, the Court of Appeals and trial courts in the ten judicial districts.

According to the Minnesota Court Interpreter Program, which tracks court interpreter usage, the most widely used languages for interpreters in Minnesota courts in 2004 were (in descending order of frequency):

1. Spanish
2. Somali
3. Hmong
4. American Sign Language
5. Vietnamese

B. WINONA County District Court

WINONA County District Court will make every effort to provide service to all LEP persons. However, the following list shows the languages that are most frequently used in the area.

- Spanish
- Hmong
- Laotian
- Vietnamese

This information is based on data from the Minnesota Court Interpreter Program, Minnesota Department of Education, U.S. Census Report, and personal experience.

III. LANGUAGE ASSISTANCE RESOURCES

A. Interpreters Used In the Courtroom

By Minnesota statute, it is "the policy of this State that the constitutional rights of persons handicapped in communication cannot be fully protected unless qualified interpreters are available to assist them in legal proceedings." Minn. Stat. § 611.30 (2004). A person "handicapped in communication" is one who, because of difficulty in speaking or comprehending the English language, is unable to fully understand the proceedings in which the person is required to participate, or when named as a party to a legal proceeding, is unable by reason of the deficiency to obtain due process of law. Minn. Stat. §§546.42, 611.31, 358.02 (2004).

In the WINONA County District Court, sign language interpreters will be provided at court expense for all deaf court customers in compliance with the Americans with Disabilities Act. Spoken language interpreters will be provided at no cost to the court customers who are "handicapped in communication" under the following circumstances:

- Interpreters will be provided at no cost for litigants and witnesses in criminal hearings;
- Interpreters will be provided at no cost for litigants and witnesses in civil hearings
- Interpreters will be provided at no cost for litigants and witnesses in juvenile hearings; and
- Interpreters will be provided at no cost for litigants and witnesses in child support hearings.
- Interpreters will be provided at no cost for parents in juvenile hearings.

Alternatively, Minnesota Statutes Section 611.33, subd. 3 requires that "payments for any activities requiring interpreter services on behalf of law enforcement, the board of public defense, prosecutors, or corrections agents other than court appearances is the responsibility of the agency that requested the services."

1. Determining the Need for an Interpreter in the Courtroom

There are various ways that the WINONA County District Court will determine whether an LEP court customer needs an interpreter for a court hearing. First, the LEP person may request an interpreter. The WINONA County District Court displays a sign translated into Minnesota's eleven most frequently used languages which states: "*You may have the right to a court-appointed interpreter in a court case. Please ask someone at the court information desk.*" The WINONA County District Court displays this sign at the following location: Second Floor lobby adjacent to fine payment counter.

Second, court personnel and judges may determine that an interpreter is appropriate for a court hearing. Many people who need an interpreter will not request one because they do not realize

that interpreters are available, or because they do not recognize the level of English proficiency or communication skills needed to understand the court proceeding. Therefore, when it appears that an individual has any difficulty communicating, the court administrator or judge should err on the side of providing an interpreter to ensure full access to the courts.

Third, the Minnesota Court Information System (MNCIS), which is the statewide case management system, will track interpreter needs through case records and party records. Case record interpreter flags will assist staff in making sure that they know an interpreter is needed for the next hearing on a particular case. Party record interpreter information stays with the party and would be available statewide for future filings and party search results for that same individual.

Finally, outside agencies such as probation, attorneys, social workers or correctional facilities notify the court about an LEP individual's need for an interpreter for an upcoming a court hearing using the following methods: The Winona County Jail provides a daily list of persons arrested the preceding day(s). Known interpreter needs are noted on the list. Prosecutors have been asked to flag complaints of hearing impaired individuals so that arrangements for an interpreter can be made for the Rule 5 hearing. Sharing information regarding need for interpreters is a topic discussed at regular Criminal Justice Committee meetings and will be addressed at the recently established Winona County Criminal Justice Coordinating Council Community Outreach/Diversity Subcommittee. Interpreters needed for an initial appearance for a person charged with an offense requiring a bail study are scheduled an hour earlier so that the bail study can be prepared immediately prior to the hearing. Arrangements have been made with the local Project FINE program to provide a roster interpreter locally when the District is unable to find a certified interpreter. This results in more timely assistance to the litigant because interpreter travel is not an issue.

2. Court Interpreter Qualifications

The WINONA County District Court hires interpreters for courtroom hearings in compliance with the rules and policies set forth by the Minnesota Court Interpreter Program (CIP) and Rule 8 of the General Rules of Practice for the District Courts. The CIP maintains a statewide roster of interpreters who may work in the courts. This roster is available to court staff on CourtNet and the Supreme Court's web site. Interpreters on the roster have passed the court's ethics exam, attended an orientation session and signed a sworn affidavit of professional responsibility. In accordance with Rule 8, the WINONA County District Court appoints "certified" interpreters when available. To be certified, an interpreter must first meet the requirements to be on the roster, and secondly must pass a rigorous exam testing linguistic and interpreting skills. Minnesota court certified interpreters are currently available in the following languages: Spanish, Hmong, American Sign Language, Vietnamese, Russian and Mandarin Chinese. When the WINONA County District Court has made a "diligent" effort to find a certified court interpreter and none is available, the WINONA County District Court then seeks a non-certified court interpreter who is on the statewide roster.

In compliance with Rule 8, the WINONA County District Court appoints non-certified interpreters who are not listed on the roster only when certified and rostered interpreters are unavailable. Whenever a non-certified interpreter is used in the courtroom, judges are encouraged to inquire into the interpreter's skills, professional experience, and potential conflicts of interest.

As a last resort, the WINONA County District Court may also use interactive television (ITV) or telephone interpreting if no interpreters are available in person. Bilingual staff who are not on the statewide roster are never used to interpret in court. However, they may assist in securing an interpreter if necessary.

More information on court interpreters is available to court personnel in the "Best Practices Manual on Interpreters in the Minnesota State Court System," published and maintained by the State Court Administrator's Office, available at http://www.mncourts.gov/?page=463.

B. Spoken Language Services Outside The Courtroom

The WINONA County District Court is also responsible for taking reasonable steps to ensure that LEP individuals have meaningful access to services outside the courtroom. This is perhaps the most challenging situation facing court staff, because in most situations they are charged with assisting LEP individuals without an interpreter. LEP individuals may come in contact with court personnel via the phone, counter, public hallways, interviews for public defender eligibility, inquiries regarding other court procedures, and written correspondence. To that end, the WINONA County District Court has the following resources to help LEP individuals and court staff communicate with each other:

- For face-to-face encounters, as well as telephone conversations, the Winona County District Court uses the Language Line when interpreters are not immediately available.
- When court staff do not know what language a customer is speaking, they use "I Speak" cards which are available in 40 languages. The cards are located at the public counter and in each courtroom.
- Website translating programs such as Alta Vista may be used for limited communication.
- The Winona County District Court has a couple of staff people who can communicate in Spanish, and one employee who can communicate in basic ASL. These employees are able to discern what the Spanish speaking or ASL client need.
- The Winona County District Court staff has copies of the User Guide developed by the Minnesota Court Interpreter Program and may use helpful phrases sections.

C. Translated Forms & Documents

The Minnesota Courts understand the importance of translating forms and documents so that LEP individuals have greater access to the courts' services. The WINONA County District Court currently has the following forms translated into commonly used languages:

- Criminal Court Forms have been translated into Cambodian, Hmong, Lao, Russian, Somali, Spanish and Vietnamese. These forms include Rule 15 Plea Petitions (Felony and Gross Misdemeanor); Felony, Gross Misdemeanor, Misdemeanor, and Petty Misdemeanor Statements of Rights; Gross Misdemeanor DUI Statement of Rights; Probation Violation Statement of Rights

- Statement of Rights for First Court Appearance on Paternity Proceedings: Cambodian, Hmong, Lao, Russian, Somali and Spanish

When interpreters are hired for hearings, they are expected to provide sight translations for corresponding documentation to LEP individuals.

- In addition to the forms available on CourtNet, the Winona County District Court has translated the rights advisory to the Spanish language for misdemeanor and felony defendants. The tape may be played in the courtroom for persons not in custody. For in-custody persons, the Sheriff Department has a copy of the tape and plays it prior to transport to the courtroom.

IV. TRAINING

The Minnesota Courts are committed to providing LEP training opportunities for all staff members who come in contact with LEP individuals. All new Minnesota Judicial Branch employees undergo a training on using interpreters and serving LEP customers at the mandatory Judicial Branch Orientation. Additionally, all new judges elected or appointed to the state court bench are trained on interpreter issues at the New Judge Orientation. Training opportunities specifically provided in the WINONA County District Court include:

- Staff are instructed about LEP policies and procedures, as described in this LEP Plan, on an annual basis.
- Staff are required to view the video "Breaking Down the Language Barrier," a video prepared by the Department of Justice.
- Staff will attend training provided by the Educational and Organizational Development Department of the State Court Administrator Office and by the Third Judicial District Personnel Work Group.
- Staff are encouraged to take language courses and depending upon budget funds available may be reimbursed for such courses.

V. PUBLIC NOTIFICATION AND EVALUATION OF LEP PLAN

A. <u>LEP Plan Approval & Notification</u>

The WINONA County District Court's LEP Plan has been approved by the District Administrator, and a copy has been forwarded to the State Court Administrator's Office (SCAO). Any revisions to the plan will be submitted to the District Administrator for approval, and then forwarded to the SCAO. Copies of WINONA County District Court's LEP plan will be provided upon request. In addition, WINONA County District Court will post this Plan on its website, and the SCAO will post it on the Supreme Court's public website.

B. Evaluation of the LEP Plan

The WINONA County District Court will review this Plan on a periodic basis to determine whether changes are required. This assessment may be done by tracking the number of interpreters requested by language in the courts, or by other methods.

Any revisions made to the Plan will be communicated to all court personnel, and an updated version of the plan will be posted on the court's web site. Additionally, it will be posted on the Judicial Branch's public website.

Each year the statewide Court Interpreter Program Coordinator will coordinate with the judicial district interpreter liaisons to review the effectiveness of the LEP Plan. The evaluation will include identification of any problem areas and development of required corrective action strategies. Elements of the evaluation may include:

- Number of LEP persons requesting court interpreters in Minnesota Courts;
- Assessment of current language needs to determine if additional services or translated materials should be provided;
- Assessing whether staff members adequately understand LEP policies and procedures and how to carry them out; and
- Gathering feedback from LEP communities around the state.

LEP Contact Person

State Contact:
Katrin Johnson
Court Interpreter Program Coordinator
25 Rev. Dr. Martin Luther King Blvd.
Suite 105
Saint Paul, MN 55155
Katrin.Johnson@courts.state.mn.us
Tel: 651-215-0046

Local Contact:
Sally A. Cumiskey
Winona County Court Administrator
Courthouse
171 W. Third Street
Winona, MN 55987
Sally.cumiskey@courts.state.mn.us
Tel: 507-457-6577

The effective date of this LEP plan is August 1, 2007.